

**Department of State
Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Fax: 615-741-5133
Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 10-07-14
Rule ID(s): 5814
File Date: 10/13/14
Effective Date: 1/1/15

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §§ 4-5-202, 4-5-207 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Agency/Board/Commission:	State Board of Education
Division:	
Contact Person:	Dannelle F. Walker
Address:	1st Floor, Andrew Johnson Tower 710 James Robertson Parkway Nashville, TN
Zip:	37243
Phone:	615-253-5707
Email:	Dannelle.Walker@tn.gov

Revision Type (check all that apply):

☒ Amendment
☐ New
☐ Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0520-01-02	Administrative Rules and Regulations
Rule Number	Rule Title
0520-01-02-.04	Leave for Teachers

Chapter Number	Chapter Title
Rule Number	Rule Title

Administrative Rules and Regulations
0520-01-02
Amendment

Rule 0520-01-02-.04 is amended by deleting paragraph (9) in its entirety, so that, as amended, the rule shall read:

0520-01-02-.04 Leave for Teachers.

- (1) The term "teacher" shall mean any person employed by a local board of education in a position which requires a license issued by the State Department of Education. The term "teacher" shall not apply to a substitute teacher.
- (2) Sick Leave. "Sick leave" shall mean leave of absence because of illness of a teacher from natural causes or accident, quarantine, or illness or death of a member of the immediate family of a teacher, including the teacher's wife or husband, parents, grandparents, children, grandchildren, brothers, sisters, mother-in-law, father-in-law, daughter-in-law, son-in-law, brother-in-law, and sister-in-law. Upon written request of the teacher accompanied by a statement from her physician verifying pregnancy, any teacher who goes on maternity leave shall be allowed to use all or a portion of her accumulated sick leave for maternity leave purposes during the period of her physical disability only, as determined by a physician.
- (3) Personal and Professional Leave. A teacher may take two days of personal and professional leave per school year in accordance with policies of the local board of education.
- (4) Career Ladder Evaluator Professional Leave.
 - (a) Leave may be granted by a local school system to certificated employees to conduct evaluations in the Career Ladder certification process, pursuant to law.
 - (b) Such leave shall not be construed to forfeit any rights, benefits or credits earned under the local board of education.
 - (c) Career Ladder evaluators shall be under the supervision of the Career Ladder Division, State Department of Education. Nothing in this rule shall be construed to require the State Department of Education to compensate local boards of education for teachers employed as substitutes for teachers on such Career Ladder evaluator professional leave.
- (5) Personal Injury Leave.
 - (a) When a school system determines that a teacher's absence from assigned duties was required as a result of personal physical injuries caused by a physical assault or other violent criminal act committed against the teacher while on duty, the school system shall grant personal injury leave for those days of absence.
 - (b) Each local school system shall develop policies and procedures for determining eligibility for and implementing personal injury leave consistent with these rules. The policies and procedures may include provisions such as timely notification of the incident and injuries sustained, a requirement that medical attention be sought immediately, submission of a doctor's statement verifying the nature, extent and duration of the disability, option by the school system of a third party opinion, and guidelines for a process to make periodic redeterminations of eligibility if the absence exceeds a given time frame.
 - (c) Nothing in Rule 0520-01-02-.04(5) shall preclude a teacher at his or her option from directing that an absence which would otherwise qualify for personal injury leave under paragraph five (5) be charged to accumulated sick leave or personal leave instead of personal injury leave.
- (6) Substitute teachers are those persons employed to replace teachers on sick, professional, or personal leave or to fill temporary vacancies (this exists until a licensed teacher is available and employed). Substitutes are employed and paid in the following manner:

- (a) A person without a teacher's license or permit may serve as a substitute for the first 20 consecutive days of absence of a regular teacher on approved leave.
 - (b) After 20 consecutive days of approved leave, a person serving as the substitute must be licensed and hold the appropriate endorsement for the assignment or must be a retired teacher and have held the appropriate endorsement.
 - (c) After the regular teacher's accumulated leave is exhausted, the replacement teacher must be licensed and hold the appropriate endorsement for the assignment or be a retired teacher and have held the appropriate endorsement and must be paid based on the replacement teacher's training and experience record in accordance with the state and local salary schedules.
- (7) The total accumulated sick leave shall mean the total number of sick leave days which have been earned but not yet used. A teacher in need of sick leave shall be allowed to use unearned sick leave up to the amount of days which such teacher may accumulate during the remainder of the current school year.
- (8) Each local board of education shall participate in the state leave program. Local boards of education shall provide the required local contribution from public school funds for payment of substitute teachers. Teachers shall not pay any part of the state required local contribution.

Authority: T.C.A. §§ 49-1-302, 49-3-312

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Chancey	X				
Edwards	X				
Hartgrove	X				
Johnson	X				
Pearre	X				
Roberts	X				
Rolston	X				
Sloyan	X				
Tucker	X				
Student Member	X				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee State Board of Education on 07/25/2014, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date:

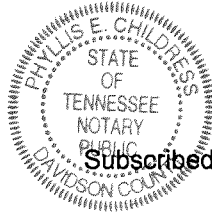
9-4-14

Signature:

Gary L. Nixon

Name of Officer: Dr. Gary L. Nixon

Title of Officer: Executive Director



Subscribed and sworn to before me on:

9/12/14

Notary Public Signature:

Phyllis E. Childress

MY COMMISSION EXPIRES:
January 9, 2016

My commission expires on:

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.

Robert E. Cooper, Jr.
Attorney General and Reporter

9-23-14

Date

Department of State Use Only

Filed with the Department of State on:

10/13/14

Effective on:

1/11/15

Tre Hargett

Tre Hargett
Secretary of State

RECEIVED
2014 OCT 13 PM 12:46
L. H. H. H.
SECRETARY OF STATE

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

Not applicable.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This rule will have no impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

State Board Rule 0520-01-02-.04(9) regarding payment for substitute teachers is not accurate and the process is no longer utilized. The Basic Education Program (BEP) formula generates funds for LEAs to pay for substitute teachers. Therefore, deleting the present language is necessary to ensure that the rule is accurate.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. §§ 49-1-302, 49-3-312

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

N/A

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

N/A

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

N/A

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Dr. David Sevier
David.Sevier@tn.gov

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Dr. David Sevier
David.Sevier@tn.gov

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Dr. David Sevier
1st Floor, Andrew Johnson Tower
710 James Robertson Parkway
Nashville, TN 37243
615-532-3528
David.Sevier@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

N/A

Administrative Rules and Regulations
0520-01-02

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 - (d) Leave may be granted by a local school system to certificated employees to conduct evaluations in the Career Ladder certification process, pursuant to law.
 - (e) Such leave shall not be construed to forfeit any rights, benefits or credits earned under the local board of education.
 - (f) Career Ladder evaluators shall be under the supervision of the Career Ladder Division, State Department of Education. Nothing in this rule shall be construed to require the State Department of Education to compensate local boards of education for teachers employed as substitutes for teachers on such Career Ladder evaluator professional leave.
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 - (f) After the regular teacher's accumulated leave is exhausted, the replacement teacher must be licensed and hold the appropriate endorsement for the assignment or be a retired teacher and have held the appropriate endorsement and must be paid based on the replacement teacher's training and experience record in accordance with the state and local salary schedules.
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- (8) Each local board of education shall participate in the state leave program. Local boards of education shall provide the required local contribution from public school funds for payment of substitute teachers. Teachers shall not pay any part of the state required local contribution.
- ~~(9) All local boards of education shall participate in the state leave program for the payment of substitute teachers. Each local board of education shall claim and be reimbursed from state funds, the amount to which it is entitled under the provisions of T.C.A. Section 49-3-312 and Section 49-5-701 for those days which are used. The local board of education shall submit a claim for reimbursement to the State Commissioner of Education by June 10th of each year. This claim shall include the number of days (and the amount paid per day) on which a substitute teacher taught for a regular teacher who had sufficient leave days accumulated.~~

Administrative Rules and Regulations
0520-01-02

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